S.B.Civil Contempt Petition No.10/2006.

Dinesh Kumar and another.
vs.
Jagdish Prasad.

Date : 26.2.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. RR Nagori, for the petitioners.
Mr. Manish Shishodia, for the respondent.

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Heard learned counsel for the parties.

This unfortunate litigation is between son and daughter on one side and father on the other. The petitioners are seeking punishment for their father – respondent because of violation of order of this Court dated 6.9.2005 by which this Court, after hearing both the parties at length, directed the respondent to deposit the entire amount which he received in pursuance of the impugned order dated 18.3.2005 which was impugned in S.B. Civil Misc. Appeal No.619/2005 and in pursuance of which, succession certificate was issued to the respondent/contemner.

Initially, it was stated by the respondent that

whatever amount has been paid to him by the Government department, he has already spent that amount. Subsequently, it is stated that in pursuance of the succession certificate, he has not withdrawn any amount.

The petitioners submitted that in fact, some amount has been withdrawn by the respondent in pursuance of the succession certificate and they are making enquiries for this and for which they have submitted application before the competent authority under the provisions of Right to Information Act. The pension department informed that the petitioners should apply in proper form.

Learned counsel for the petitioner informed that another contempt petition is pending because of the reason that some Government officers made the payment to the respondent despite the stay order passed by this Court in same S.B. Civil Misc. Appeal No.619/2005.

The respondent has placed on record copy of the certificate issued by the Treasury Department, Pachpadra, District Barmer wherein it has been certified that the respondent has been paid pension amount from 5.12.1998 to 30.6.2005 and dearness allowance amounting to Rs.3,83,206/-. It is also certified in the said certificate that apart from the

above amount, no payment has been made to the respondent. The respondent also placed on record the certificate issued by the Headmaster of Pachpadra school where deceased Smt. Sushila was in service to show that in fact, the petitioners were paid GPF amount of Rs.38,038/- and against SI bill no.68/25.1.1999, the petitioners were paid Rs.2,22,494/-.

Learned counsel for the petitioners submits that since the petitioners are yet to get information about actual payment made to the respondent, therefore, some time may be granted.

Learned counsel for the respondent submits that since this Court passed a detail order on 19.1.2007 and directed the Government authorities to issue certificate to the respondent and the respondent has obtained that certificate and has placed on record, therefore, the contempt petition may be dismissed as the respondent has not withdrawn any amount in pursuance of the succession certificate or on the basis of succession certificate which is impugned in S.B. Civil Misc. Appeal No.619/2005.

I considered the submissions of learned counsel for the parties.

Since the respondent has placed on record, the certificate issued by the Treasury Department, Pachpadra certifying that he has only been paid the amount mentioned in the certificate and not any other amount but the petitioners are yet making enquiries about the facts for taking any action for committing contempt by the respondent, I do not find any reason to continue this contempt petition in the light of the certificate issued by the Treasury Department. The contempt petition cannot be kept pending for making fishing enquiry by the petitioners.

However, it is made clear that since no time can be granted for making enquiries by keeping the contempt petition pending to the petitioners so as to make out a case if it is found out by the petitioners on enquiry, therefore, the petitioners will be free to move another application for contempt in case, they obtain sufficient particulars for initiating contempt proceedings against the respondent.

In view of the above, this contempt petition of the petitioners is dismissed and notice is discharged.

(PRAKASH TATIA), J.

S.Phophaliya